

Union Calendar No. 329

105TH CONGRESS  
2D Session

**H. R. 3892**

[Report No. 105-587]

**A BILL**

To amend the Elementary and Secondary Education Act of 1965 to establish a program to help children and youth learn English, and for other purposes.

JUNE 19, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1998

Mr. RIGGS introduced the following bill; which was referred to the Committee on Education and the Workforce

JUNE 19, 1998

Additional sponsors: Mr. STUMP, Mr. NORWOOD, and Mr. HILLEARY

JUNE 19, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on May 19, 1998]

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 to establish a program to help children and youth learn English, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ENGLISH LANGUAGE EDUCATION.**

2 *Part A of title VII of the Elementary and Secondary*  
3 *Education Act of 1965 (20 U.S.C. 7401 et seq.) is amended*  
4 *to read as follows:*

5 **“PART A—ENGLISH LANGUAGE EDUCATION**

6 **“SEC. 7101. SHORT TITLE.**

7 *“This part may be cited as the ‘English Language Flu-*  
8 *ency Act’.*

9 **“SEC. 7102. FINDINGS AND PURPOSES.**

10 *“(a) FINDINGS.—The Congress finds as follows:*

11 *“(1) English is the common language of the*  
12 *United States and every citizen and other person re-*  
13 *siding in the United States should have a command*  
14 *of the English language in order to develop to their*  
15 *full potential.*

16 *“(2) States and local school districts need assist-*  
17 *ance in developing the capacity to provide programs*  
18 *of instruction that offer and provide an equal edu-*  
19 *cational opportunity to immigrant children and*  
20 *youth and children and youth who need special assist-*  
21 *ance because English is not their dominant language.*

22 *“(b) PURPOSES.—The purposes of this part are—*

23 *“(1) to help ensure that children and youth who*  
24 *are English language learners master English and de-*  
25 *velop high levels of academic attainment in English;*  
26 *and*

1           “(2) *to assist eligible local educational agencies*  
 2           *that experience unexpectedly large increases in their*  
 3           *student population due to immigration to help immi-*  
 4           *grant children and youth with their transition into*  
 5           *society, including mastery of the English language.*

6   **“SEC. 7103. PARENTAL NOTIFICATION AND CONSENT TO**  
 7           **PARTICIPATE.**

8           “(a) *IN GENERAL.—A parent or the parents of a child*  
 9           *participating in an English language instruction program*  
 10          *for English language learners assisted under this Act shall*  
 11          *be informed of—*

12           “(1) *the reasons for the identification of the child*  
 13           *as being in need of English language instruction;*

14           “(2) *the child’s level of English proficiency, how*  
 15           *such level was assessed, and the status of the child’s*  
 16           *academic achievement; and*

17           “(3) *how the English language instruction pro-*  
 18           *gram will specifically help the child acquire English*  
 19           *and meet age-appropriate standards for grade pro-*  
 20           *motion and graduation.*

21          “(b) *PARENTAL CONSENT.—*

22           “(1) *IN GENERAL.—A parent or the parents of a*  
 23           *child who is an English language learner and is iden-*  
 24           *tified for participation in an English language in-*  
 25           *struction program assisted under this Act—*

1           “(A) shall sign a form consenting to their  
2           child’s placement in such a program prior to  
3           such time as their child is enrolled in the pro-  
4           gram;

5           “(B) shall select among methods of instruc-  
6           tion, if more than one method is offered in the  
7           program; and

8           “(C) shall have their child removed from the  
9           program upon their request.

10          “(2) *EFFECT OF LAU DECISION.*—A local edu-  
11          cational agency shall not be relieved of any of its obli-  
12          gations under the holding in the Supreme Court case  
13          of *Lau v. Nichols*, 414 U.S. 563 (1974), because any  
14          parent chooses not to enroll their child in an English  
15          language instruction program using their native lan-  
16          guage in instruction.

17          “(c) *RECEIPT OF INFORMATION.*—A parent or the par-  
18          ents of a child identified for participation in an English  
19          language instruction program for English language learn-  
20          ers assisted under this Act shall receive, in a manner and  
21          form understandable to the parent or parents, the informa-  
22          tion required by this section. At a minimum, the parent  
23          or parents shall receive—

1           “(1) *timely information about English language*  
 2           *instruction programs for English language learners*  
 3           *assisted under this Act; and*

4           “(2) *if a parent of a participating child so de-*  
 5           *sires, notice of opportunities for regular meetings for*  
 6           *the purpose of formulating and responding to rec-*  
 7           *ommendations from such parents.*

8           “(d) *SPECIAL RULE.—An individual may not be ad-*  
 9           *mitted to, or excluded from, any federally assisted education*  
 10          *program solely on the basis of a surname, language-minor-*  
 11          *ity status, or national origin.*

12           **“Subpart 1—Grants for English Language**  
 13                                   **Acquisition**

14           **“CHAPTER 1—GENERAL PROVISIONS**

15          **“SEC. 7111. FUNDING.**

16          “(a) *AUTHORIZATION OF APPROPRIATIONS.—For the*  
 17          *purpose of carrying out this subpart, there are authorized*  
 18          *to be appropriated such sums as may be necessary for fiscal*  
 19          *year 1999 and each of the 4 succeeding fiscal years.*

20          “(b) *RESERVATION FOR ENTITIES SERVING NATIVE*  
 21          *AMERICANS AND ALASKA NATIVES.—From the sums appro-*  
 22          *priated under subsection (a) for any fiscal year, the Sec-*  
 23          *retary shall reserve not less than .5 percent to provide Fed-*  
 24          *eral financial assistance under this subpart to entities that*

1 *are considered to be a local educational agency under sec-*  
 2 *tion 7112(a).*

3 **“SEC. 7112. NATIVE AMERICAN AND ALASKA NATIVE CHIL-**  
 4 **DREN IN SCHOOL.**

5 *“(a) ELIGIBLE ENTITIES.—For the purpose of carry-*  
 6 *ing out programs under this subpart for individuals served*  
 7 *by elementary, secondary, and postsecondary schools oper-*  
 8 *ated predominately for Native American or Alaska Native*  
 9 *children and youth, the following shall be considered to be*  
 10 *a local educational agency:*

11 *“(1) An Indian tribe.*

12 *“(2) A tribally sanctioned educational authority.*

13 *“(3) A Native Hawaiian or Native American*  
 14 *Pacific Islander native language educational organi-*  
 15 *zation.*

16 *“(4) An elementary or secondary school that is*  
 17 *operated or funded by the Bureau of Indian Affairs,*  
 18 *or a consortium of such schools.*

19 *“(5) An elementary or secondary school operated*  
 20 *under a contract with or grant from the Bureau of*  
 21 *Indian Affairs, in consortium with another such*  
 22 *school or a tribal or community organization.*

23 *“(6) An elementary or secondary school operated*  
 24 *by the Bureau of Indian Affairs and an institution*  
 25 *of higher education, in consortium with an elemen-*

1        *tary or secondary school operated under a contract*  
 2        *with or grant from the Bureau of Indian Affairs or*  
 3        *a tribal or community organization.*

4        “(b) *SUBMISSION OF APPLICATIONS FOR ASSIST-*  
 5 *ANCE.—Notwithstanding any other provision of this sub-*  
 6 *part, an entity that is considered to be a local educational*  
 7 *agency under subsection (a), and that desires to submit an*  
 8 *application for Federal financial assistance under this sub-*  
 9 *part, shall submit the application to the Secretary. In all*  
 10 *other respects, such an entity shall be eligible for a grant*  
 11 *under this subpart on the same basis as any other local*  
 12 *educational agency.*

13        **“CHAPTER 2—GRANTS FOR ENGLISH**  
 14                **LANGUAGE ACQUISITION**

15        **“SEC. 7121. FORMULA GRANTS TO STATES.**

16        “(a) *IN GENERAL.—In the case of each State that in*  
 17 *accordance with section 7122 submits to the Secretary an*  
 18 *application for a fiscal year, the Secretary shall make a*  
 19 *grant for the year to the State for the purposes specified*  
 20 *in subsection (b). The grant shall consist of the allotment*  
 21 *determined for the State under section 7124.*

22        “(b) *PURPOSES OF GRANTS.—*

23                “(1) *REQUIRED EXPENDITURES.—The Secretary*  
 24        *may make a grant under subsection (a) only if the*  
 25        *State involved agrees that the State will expend at*



1        *least 90 percent of the amount of the funds provided*  
2        *under the grant for the purpose of making subgrants*  
3        *to eligible entities to provide assistance to children*  
4        *and youth who are English language learners and*  
5        *immigrant children and youth in accordance with*  
6        *section 7123.*

7                *“(2) AUTHORIZED EXPENDITURES.—Subject to*  
8        *paragraph (3), a State that receives a grant under*  
9        *subsection (a) may expend not more than 10 percent*  
10       *of the amount of the funds provided under the grant*  
11       *for one or more of the following purposes:*

12                *“(A) Professional development and activi-*  
13       *ties that assist personnel in meeting State and*  
14       *local certification requirements for English lan-*  
15       *guage instruction.*

16                *“(B) Planning, administration, and inter-*  
17       *agency coordination related to the subgrants re-*  
18       *ferred to in paragraph (1).*

19                *“(C) Providing technical assistance and*  
20       *other forms of assistance to local educational*  
21       *agencies that—*

22                *“(i) educate children and youth who*  
23       *are English language learners and immi-*  
24       *grant children and youth; and*

1                   “(ii) are not receiving a subgrant from  
2                   a State under this chapter.

3                   “(D) Providing bonuses to subgrantees  
4                   whose performance has been exceptional in terms  
5                   of the speed with which children and youth en-  
6                   rolled in the subgrantee’s programs and activi-  
7                   ties attain English language proficiency.

8                   “(3) LIMITATION ON ADMINISTRATIVE COSTS.—  
9                   In carrying out paragraph (2), a State that receives  
10                  a grant under subsection (a) may expend not more  
11                  than 2 percent of the amount of the funds provided  
12                  under the grant for the purposes described in para-  
13                  graph (2)(B).

14   **“SEC. 7122. APPLICATIONS BY STATES.**

15                  “For purposes of section 7121, an application submit-  
16                  ted by a State for a grant under such section for a fiscal  
17                  year is in accordance with this section if the application—

18                         “(1) describes the process that the State will use  
19                         in making subgrants to eligible entities under this  
20                         chapter;

21                         “(2) contains an agreement that the State annu-  
22                         ally will submit to the Secretary a summary report,  
23                         describing the State’s use of the funds provided under  
24                         the grant;

1           “(3) contains an agreement that the State will  
2       give special consideration to applications for a  
3       subgrant under section 7123 from eligible entities that  
4       describe a program that—

5           “(A)(i) enrolls a large percentage or large  
6       number of children and youth who are English  
7       language learners and immigrant children and  
8       youth; and

9           “(ii) addresses a need brought about  
10      through a significant increase, as compared to  
11      the previous 2 years, in the percentage or num-  
12      ber of children and youth who are English lan-  
13      guage learners in a school or school district, in-  
14      cluding schools and school districts in areas with  
15      low concentrations of such children and youth; or

16          “(B) on the day preceding the date of the  
17      enactment of this section, was receiving funding  
18      under a grant—

19           “(i) awarded by the Secretary under  
20      subpart 1 or 3 of part A of the Bilingual  
21      Education Act (as such Act was in effect on  
22      such day); and

23           “(ii) that was not due to expire before  
24      a period of one year or more had elapsed;

1           “(4) contains an agreement that, in carrying out  
2           this chapter, the State will address the needs of school  
3           systems of all sizes and in all geographic areas, in-  
4           cluding rural and urban schools;

5           “(5) contains an agreement that the State will  
6           coordinate its programs and activities under this  
7           chapter with its other programs and activities under  
8           this Act and other Acts, as appropriate; and

9           “(6) contains an agreement that the State will  
10          monitor the progress of students enrolled in programs  
11          and activities receiving assistance under this chapter  
12          in attaining English proficiency and withdraw fund-  
13          ing from such programs and activities in cases  
14          where—

15                 “(A) students enrolling when they are in  
16                 kindergarten are not mastering the English lan-  
17                 guage by the end of the first grade; and

18                 “(B) other students are not mastering the  
19                 English language after 2 academic years of en-  
20                 rollment.

21   **“SEC. 7123. SUBGRANTS TO ELIGIBLE ENTITIES.**

22           “(a) *PURPOSES OF SUBGRANTS.*—A State may make  
23   a subgrant to an eligible entity from funds received by the  
24   State under this chapter only if the entity agrees to expend  
25   the funds for one of the following purposes:

1           “(1) *Developing and implementing new English*  
 2           *language instructional programs for children and*  
 3           *youth who are English language learners, including*  
 4           *programs of early childhood education and kinder-*  
 5           *garten through 12th grade education.*

6           “(2) *Carrying out locally designed projects to ex-*  
 7           *pand or enhance existing English language instruc-*  
 8           *tion programs for children and youth who are*  
 9           *English language learners.*

10          “(3) *Assisting a local educational agency in pro-*  
 11          *viding enhanced instructional opportunities for im-*  
 12          *migrant children and youth.*

13          “(b) *AUTHORIZED SUBGRANTEE ACTIVITIES.—*

14          “(1) *IN GENERAL.—Subject to paragraph (2), a*  
 15          *State may make a subgrant to an eligible entity from*  
 16          *funds received by the State under this chapter in*  
 17          *order that the eligible entity may achieve one of the*  
 18          *purposes described in subsection (a) by undertaking*  
 19          *one or more of the following activities to improve the*  
 20          *understanding, and use, of the English language,*  
 21          *based on a child’s learning skills:*

22                 “(A) *Developing and implementing com-*  
 23                 *prehensive preschool or elementary or secondary*  
 24                 *school English language instructional programs*

1       *that are coordinated with other relevant pro-*  
2       *grams and services.*

3               “(B) *Providing training to classroom teach-*  
4       *ers, administrators, and other school or commu-*  
5       *nity-based organizational personnel to improve*  
6       *the instruction and assessment of children and*  
7       *youth who are English language learners, immi-*  
8       *grant children and youth, or both.*

9               “(C) *Improving the program for children*  
10       *and youth who are English language learners,*  
11       *immigrant children and youth, or both.*

12               “(D) *Providing for the acquisition or devel-*  
13       *opment of education technology or instructional*  
14       *materials, access to and participation in elec-*  
15       *tronic networks for materials, providing training*  
16       *and communications, and incorporation of such*  
17       *resources in curricula and programs, such as*  
18       *those funded under this subpart.*

19               “(E) *Such other activities, related to the*  
20       *purpose of the subgrant, as the State may ap-*  
21       *prove.*

22               “(2) *MOVING CHILDREN OUT OF SPECIALIZED*  
23       *CLASSROOMS.—Any program or activity undertaken*  
24       *by an eligible entity using a subgrant from a State*  
25       *under this chapter shall be designed to assist students*

1       enrolled in the program or activity to move into a  
2       classroom where instruction is not tailored for  
3       English language learners or immigrant children and  
4       youth—

5               “(A) by the end of the first grade, in the  
6               case of students enrolling when they are in kin-  
7               dergarten; or

8               “(B) by the end of their second academic  
9               year of enrollment, in the case of other students.

10              “(3) *MAXIMUM ENROLLMENT PERIOD.*—An eligi-  
11       ble entity may not use funds received from a State  
12       under this chapter to provide instruction or assist-  
13       ance to any individual who has been enrolled for a  
14       period exceeding 3 years in a program or activity un-  
15       dertaken by the eligible entity under this section.

16              “(c) *SELECTION OF METHOD OF INSTRUCTION.*—To  
17       receive a subgrant from a State under this chapter, an eligi-  
18       ble entity shall select one or more methods or forms of  
19       English language instruction to be used in the programs  
20       and activities undertaken by the entity to assist English  
21       language learners and immigrant children and youth to  
22       achieve English fluency. Such selection shall be consistent  
23       with the State’s law, including State constitutional law.

1       “(d) *DURATION OF SUBGRANTS.*—*The duration of a*  
2 *subgrant made by a State under this section shall be deter-*  
3 *mined by the State in its discretion.*

4       “(e) *APPLICATIONS BY ELIGIBLE ENTITIES.*—

5           “(1) *IN GENERAL.*—*To receive a subgrant from*  
6 *a State under this chapter, an eligible entity shall*  
7 *submit an application to the State at such time, in*  
8 *such form, and containing such information as the*  
9 *State may require.*

10          “(2) *REQUIRED DOCUMENTATION.*—*The applica-*  
11 *tion shall describe the programs and activities pro-*  
12 *posed to be developed, implemented, and administered*  
13 *under the subgrant and shall provide an assurance*  
14 *that the applicant will only employ teachers and*  
15 *other personnel for the proposed programs and activi-*  
16 *ties who are proficient in English, including written*  
17 *and oral communication skills.*

18          “(3) *REQUIREMENTS FOR APPROVAL.*—*A State*  
19 *may approve an application submitted by an eligible*  
20 *entity for a subgrant under this chapter only if the*  
21 *State determines that—*

22           “(A) *the eligible entity will use qualified*  
23 *personnel who have appropriate training and*  
24 *professional credentials in teaching English to*



1        *children and youth who are English language*  
2        *learners and immigrant children and youth;*

3                *“(B) in designing the programs and activi-*  
4        *ties proposed in the application, the needs of*  
5        *children enrolled in private elementary and sec-*  
6        *ondary schools have been taken into account*  
7        *through consultation with appropriate private*  
8        *school officials;*

9                *“(C) the eligible entity has provided for the*  
10       *participation of children enrolled in private ele-*  
11       *mentary and secondary schools in the programs*  
12       *and activities proposed in the application on a*  
13       *basis comparable to that provided for children*  
14       *enrolled in public school;*

15               *“(D) the eligible entity has based its pro-*  
16       *posal on sound research and theory; and*

17               *“(E) the eligible entity has described in the*  
18       *application how students enrolled in the pro-*  
19       *grams and activities proposed in the application*  
20       *will be taught English—*

21               *“(i) by the end of the first grade, in the*  
22       *case of students enrolling when they are in*  
23       *kindergarten; or*

1                   “(ii) by the end of their second aca-  
 2                   demic year of enrollment, in the case of  
 3                   other students.

4                   “(4) *QUALITY*.—In determining which applica-  
 5                   tions to select for approval, a State shall consider the  
 6                   quality of each application.

7                   “(f) *EVALUATION*.—

8                   “(1) *IN GENERAL*.—Each eligible entity that re-  
 9                   ceives a subgrant from a State under this chapter  
 10                  shall provide the State, at the conclusion of every sec-  
 11                  ond fiscal year during which the grant is received,  
 12                  with an evaluation, in a form prescribed by the State,  
 13                  of—

14                  “(A) the programs and activities conducted  
 15                  by the entity with funds received under this  
 16                  chapter during the two immediately preceding  
 17                  fiscal years; and

18                  “(B) the progress made by students in  
 19                  learning the English language.

20                  “(2) *USE OF EVALUATION*.—An evaluation pro-  
 21                  vided by an eligible entity under paragraph (1) shall  
 22                  be used by the entity and the State—

23                  “(A) for improvement of programs and ac-  
 24                  tivities;

1           “(B) to determine the effectiveness of pro-  
2           grams and activities in assisting children and  
3           youth who are English language learners to mas-  
4           ter the English language; and

5           “(C) in determining whether or not to con-  
6           tinue funding for specific programs or projects.

7           “(3) *EVALUATION COMPONENTS.*—An evaluation  
8           provided by an eligible entity under paragraph (1)  
9           shall include—

10           “(A) an evaluation of whether students en-  
11           rolling in a program or activity conducted by  
12           the entity with funds received under this chap-  
13           ter—

14           “(i) are mastering the English lan-  
15           guage—

16           “(I) by the end of the first grade,  
17           in the case of students enrolling when  
18           they are in kindergarten; or

19           “(II) by the end of their second  
20           academic year of enrollment, in the  
21           case of other students; and

22           “(ii) have achieved a working knowl-  
23           edge of the English language that is suffi-  
24           cient to permit them to perform, in English,  
25           regular classroom work; and

1                   “(B) *such other information as the State*  
2                   *may require.*

3   **“SEC. 7124. DETERMINATION OF AMOUNT OF ALLOTMENT.**

4           “(a) *IN GENERAL.—Except as provided in subsections*  
5   *(b) and (c), from the sum available for the purpose of mak-*  
6   *ing grants to States under this chapter for any fiscal year,*  
7   *the Secretary shall allot to each State an amount which*  
8   *bears the same ratio to such sum as the total number of*  
9   *children and youth who are English language learners and*  
10   *immigrant children and youth and who reside in the State*  
11   *bears to the total number of such children and youth resid-*  
12   *ing in all States (excluding the Commonwealth of Puerto*  
13   *Rico and the outlying areas) that, in accordance with sec-*  
14   *tion 7122, submit to the Secretary an application for the*  
15   *year.*

16          “(b) *PUERTO RICO.—From the sum available for the*  
17   *purpose of making grants to States under this chapter for*  
18   *any fiscal year, the Secretary shall allot to the Common-*  
19   *wealth of Puerto Rico an amount equal to 1.5 percent of*  
20   *the sums appropriated under section 7111(a).*

21          “(c) *OUTLYING AREAS.—*

22               “(1) *TOTAL AVAILABLE FOR ALLOTMENT.—From*  
23   *the sum available for the purpose of making grants to*  
24   *States under this chapter for any fiscal year, the Sec-*  
25   *retary shall allot to the outlying areas, in accordance*

1       with paragraph (2), a total amount equal to .5 per-  
 2       cent of the sums appropriated under section 7111(a).

3               “(2) *DETERMINATION OF INDIVIDUAL AREA*  
 4       *AMOUNTS.*—From the total amount determined under  
 5       paragraph (1), the Secretary shall allot to each outly-  
 6       ing area an amount which bears the same ratio to  
 7       such amount as the total number of children and  
 8       youth who are English language learners and immi-  
 9       grant children and youth and who reside in the outly-  
 10      ing area bears to the total number of such children  
 11      and youth residing in all outlying areas that, in ac-  
 12      cordance with section 7122, submit to the Secretary  
 13      an application for the year.

14           “(d) *USE OF STATE DATA FOR DETERMINATIONS.*—  
 15      For purposes of subsections (a) and (c), any determination  
 16      of the number of children and youth who are English lan-  
 17      guage learners and reside in a State shall be made using  
 18      the most recent English language learner school enrollment  
 19      data available to, and reported to the Secretary by, the  
 20      State. For purposes of such subsections, any determination  
 21      of the number of immigrant children and youth who reside  
 22      in a State shall made using the most recent data available  
 23      to, and reported to the Secretary by, the State.

24           “(e) *NO REDUCTION PERMITTED BASED ON TEACHING*  
 25      *METHOD.*—The Secretary may not reduce a State’s allot-

1 *ment based on the State’s selection of the immersion method*  
2 *of instruction as its preferred method of teaching the*  
3 *English language to children and youth who are English*  
4 *language learners or immigrant children and youth.*

5 **“SEC. 7125. CONSTRUCTION.**

6 *“Nothing in this chapter shall be construed as requir-*  
7 *ing a State or a local educational agency to establish, con-*  
8 *tinue, or eliminate a program of native language instruc-*  
9 *tion.*

10 **“Subpart 2—Research and Dissemination**

11 **“SEC. 7141. AUTHORITY.**

12 *“The Secretary may conduct, through the Office of*  
13 *Educational Research and Improvement, research for the*  
14 *purpose of improving English language instruction for chil-*  
15 *dren and youth who are English language learners and im-*  
16 *migrant children and youth. Activities under this section*  
17 *shall be limited to research to identify successful models for*  
18 *teaching children English and distribution of research re-*  
19 *sults to States for dissemination to schools with populations*  
20 *of students who are English language learners. Research*  
21 *conducted under this section may not focus solely on any*  
22 *one method of instruction.”.*

1 **SEC. 2. REPEAL OF EMERGENCY IMMIGRANT EDUCATION**  
 2 **PROGRAM.**

3 *Part C of title VII of the Elementary and Secondary*  
 4 *Education Act of 1965 (20 U.S.C. 7541 et seq.) is repealed.*

5 **SEC. 3. ADMINISTRATION.**

6 *Part D of title VII of the Elementary and Secondary*  
 7 *Education Act of 1965 (20 U.S.C. 7571 et seq.) is redesign-*  
 8 *ated as part C of such title and amended to read as fol-*  
 9 *lows:*

10 **“PART C—ADMINISTRATION**

11 **“SEC. 7301. REPORTING REQUIREMENTS.**

12 *“(a) STATES.—Based upon the evaluations provided*  
 13 *to a State under section 7123(f), each State receiving a*  
 14 *grant under this title annually shall report to the Secretary*  
 15 *on programs and activities undertaken by the State under*  
 16 *this title and the effectiveness of such programs and activi-*  
 17 *ties in improving the education provided to children and*  
 18 *youth who are English language learners and immigrant*  
 19 *children and youth.*

20 *“(b) SECRETARY.—Every other year, the Secretary*  
 21 *shall prepare and submit to the Committee on Education*  
 22 *and the Workforce of the House of Representatives and the*  
 23 *Committee on Labor and Human Resources of the Senate*  
 24 *a report on programs and activities undertaken by States*  
 25 *under this title and the effectiveness of such programs and*  
 26 *activities in improving the education provided to children*

1 *and youth who are English language learners and immi-*  
 2 *grant children and youth.*

3 **“SEC. 7302. COMMINGLING OF FUNDS.**

4       “(a) *ESEA FUNDS.*—A person who receives Federal  
 5 funds under subpart 1 of part A may commingle such funds  
 6 with other funds the person receives under this Act so long  
 7 as the person satisfies the requirements of this Act.

8       “(b) *STATE AND LOCAL FUNDS.*—Except as provided  
 9 in section 14503, a person who receives Federal funds under  
 10 subpart 1 of part A may commingle such funds with funds  
 11 the person receives under State or local law for the purpose  
 12 of teaching English to children and youth who are English  
 13 language learners and immigrant children and youth, to  
 14 the extent permitted under such State or local law, so long  
 15 as the person satisfies the requirements of this title and such  
 16 law.”.

17 **SEC. 4. GENERAL PROVISIONS.**

18       *Part E of title VII of the Elementary and Secondary*  
 19 *Education Act of 1965 (20 U.S.C. 7601 et seq.) is redesi-*  
 20 *gnated as part D of such title and amended to read as fol-*  
 21 *lows:*

22                   **“PART D—GENERAL PROVISIONS**

23 **“SEC. 7401. DEFINITIONS.**

24       *“For purposes of this title:*



1           “(1) *CHILDREN AND YOUTH*.—The term ‘children  
2           and youth’ means individuals aged 3 through 21.

3           “(2) *COMMUNITY-BASED ORGANIZATION*.—The  
4           term ‘community-based organization’ means a private  
5           nonprofit organization of demonstrated effectiveness  
6           or Indian tribe or tribally sanctioned educational au-  
7           thority which is representative of a community or sig-  
8           nificant segments of a community and which provides  
9           educational or related services to individuals in the  
10          community. Such term includes a Native Hawaiian  
11          or Native American Pacific Islander native language  
12          educational organization.

13          “(3) *ELIGIBLE ENTITY*.—The term ‘eligible en-  
14          tity’ means—

15                 “(A) one or more local educational agencies;

16                 “(B) one or more local educational agencies  
17                 in collaboration with—

18                         “(i) an institution of higher education;

19                         “(ii) a community-based organization;

20                         “(iii) a local educational agency; or

21                         “(iv) a State; or

22                 “(C) a community-based organization or an  
23                 institution of higher education which has an ap-  
24                 plication approved by a local educational agency

1           *to enhance an early childhood education pro-*  
2           *gram or a family education program.*

3           “(4) *ENGLISH LANGUAGE LEARNER.*—*The term*  
4           *‘English language learner’, when used with reference*  
5           *to an individual, means an individual—*

6                     “(A) *aged 3 through 21;*

7                     “(B) *who—*

8                             “(i) *was not born in the United States;*

9                     *or*

10                            “(ii) *comes from an environment where*  
11                            *a language other than English is dominant*  
12                            *and who normally uses a language other*  
13                            *than English; and*

14                            “(C) *who has sufficient difficulty speaking,*  
15                            *reading, writing, or understanding the English*  
16                            *language that the difficulty may deny the indi-*  
17                            *vidual the opportunity—*

18                            “(i) *to learn successfully in a class-*  
19                            *room where the language of instruction is*  
20                            *English; or*

21                            “(ii) *to participate fully in society.*

22           “(5) *IMMIGRANT CHILDREN AND YOUTH.*—*The*  
23           *term ‘immigrant children and youth’ means individ-*  
24           *uals who—*

25                            “(A) *are aged 3 through 21;*

1                   “(B) *were not born in any State; and*

2                   “(C) *have not attended school in any State*  
3                   *for more than three full academic years.*

4                   “(6) *INDIAN TRIBE.—The term ‘Indian tribe’*  
5                   *means any Indian tribe, band, nation, or other orga-*  
6                   *nized group or community, including any Alaska Na-*  
7                   *tive village or regional corporation as defined in or*  
8                   *established pursuant to the Alaska Native Claims Set-*  
9                   *tlement Act (43 U.S.C. 1601 et seq.), which is recog-*  
10                  *nized as eligible for the special programs and services*  
11                  *provided by the United States to Indians because of*  
12                  *their status as Indians.*

13                  “(7) *NATIVE AMERICAN; NATIVE AMERICAN LAN-*  
14                  *GUAGE.—The terms ‘Native American’ and ‘Native*  
15                  *American language’ have the meanings given such*  
16                  *terms in section 103 of the Native American Lan-*  
17                  *guages Act (25 U.S.C. 2902).*

18                  “(8) *NATIVE HAWAIIAN OR NATIVE AMERICAN PA-*  
19                  *CIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL OR-*  
20                  *GANIZATION.—The term ‘Native Hawaiian or Native*  
21                  *American Pacific Islander native language edu-*  
22                  *cational organization’ means a nonprofit organiza-*  
23                  *tion—*

24                  “(A) *a majority of whose governing board,*  
25                  *and a majority of whose employees, are fluent*

1        *speakers of the traditional Native American lan-*  
 2        *guages used in the organization’s educational*  
 3        *programs; and*

4                *“(B) that has not less than five years of suc-*  
 5        *cessful experience in providing educational serv-*  
 6        *ices in traditional Native American languages.*

7                *“(9) NATIVE LANGUAGE.—The term ‘native lan-*  
 8        *guage’, when used with reference to an individual*  
 9        *who is an English language learner, means the lan-*  
 10       *guage normally used by such individual.*

11               *“(10) OUTLYING AREA.—The term ‘outlying*  
 12       *area’ means any of the following:*

13                *“(A) The Virgin Islands of the United*  
 14       *States.*

15                *“(B) Guam.*

16                *“(C) American Samoa.*

17                *“(D) The Commonwealth of the Northern*  
 18       *Mariana Islands.*

19                *“(11) STATE.—The term ‘State’ means any of*  
 20       *the several States, the District of Columbia, the Com-*  
 21       *monwealth of Puerto Rico, or any outlying area.*

22                *“(12) TRIBALLY SANCTIONED EDUCATIONAL AU-*  
 23       *THORITY.—The term ‘tribally sanctioned educational*  
 24       *authority’ means—*

1           “(A) any department or division of edu-  
 2           cation operating within the administrative  
 3           structure of the duly constituted governing body  
 4           of an Indian tribe; and

5           “(B) any nonprofit institution or organiza-  
 6           tion that is—

7                   “(i) chartered by the governing body of  
 8                   an Indian tribe to operate a school de-  
 9                   scribed in section 7112(a) or otherwise to  
 10                  oversee the delivery of educational services  
 11                  to members of the tribe; and

12                  “(ii) approved by the Secretary for the  
 13                  purpose of carrying out programs under  
 14                  subpart 1 of part A for individuals served  
 15                  by a school described in section 7112(a).

16 **“SEC. 7402. LIMITATION ON FEDERAL REGULATIONS.**

17           “The Secretary shall issue regulations under this title  
 18           only to the extent that such regulations are necessary to  
 19           ensure compliance with the specific requirements of this  
 20           title.

21 **“SEC. 7403. LEGAL AUTHORITY UNDER STATE LAW.**

22           “Nothing in this title shall be construed to negate or  
 23           supersede the legal authority, under State law, of any State  
 24           agency, State entity, or State public official over programs

1 *that are under the jurisdiction of the agency, entity, or offi-*  
 2 *cial.*

3 **“SEC. 7404. RELEASE FROM COMPLIANCE AGREEMENTS.**

4       *“Notwithstanding section 7403, any compliance agree-*  
 5 *ment entered into between a State, locality, or local edu-*  
 6 *cational agency and the Department of Health, Education,*  
 7 *and Welfare or the Department of Education, that requires*  
 8 *such State, locality, or local educational agency to develop,*  
 9 *implement, provide, or maintain any form of bilingual edu-*  
 10 *cation, is void.*

11 **“SEC. 7405. RULEMAKING ON OFFICE OF CIVIL RIGHTS**  
 12 **GUIDELINES AND COMPLIANCE STANDARDS.**

13       *“(a) IN GENERAL.—In accordance with subchapter II*  
 14 *of chapter 5 of part I of title 5, United States Code, the*  
 15 *Secretary—*

16           *“(1) shall publish in the Federal Register a no-*  
 17 *tice of proposed rulemaking with respect to the en-*  
 18 *forcement guidelines and compliance standards of the*  
 19 *Office of Civil Rights of the Department of Education*  
 20 *that apply to a program or activity to provide*  
 21 *English language instruction to English language*  
 22 *learners that is undertaken by a State, locality, or*  
 23 *local educational agency;*

24           *“(2) shall undertake a rulemaking pursuant to*  
 25 *such notice; and*

1           “(3) shall promulgate a final rule pursuant to  
2           such rulemaking on the record after opportunity for  
3           an agency hearing.

4           “(b) *EFFECT OF RULEMAKING ON COMPLIANCE*  
5 *AGREEMENTS.*—*The Secretary may not enter into any com-*  
6 *pliance agreement after the date of the enactment of this*  
7 *section pursuant to a guideline or standard described in*  
8 *subsection (a)(1) with an entity described in such subsection*  
9 *until the Secretary has promulgated the final rule described*  
10 *in subsection (a)(3).*

11   **“SEC. 7406. REQUIREMENT FOR STATE STANDARDIZED**  
12                           **TESTING IN ENGLISH.**

13           “(a) *REQUIREMENT.*—*In the case of a State receiving*  
14 *a grant under this title that administers a State standard-*  
15 *ized test to elementary or secondary school children in the*  
16 *State, the State shall not exempt a child from the require-*  
17 *ment that the test be administered in English, on the*  
18 *ground that the child is an English language learner, if*  
19 *the child—*

20           “(1) *has resided, throughout the 3-year period*  
21 *ending on the date the test is administered, in a geo-*  
22 *graphic area that is under the jurisdiction of only one*  
23 *local educational agency; and*

24           “(2) *has received educational services from such*  
25 *local educational agency throughout such 3-year pe-*

1        riod (excluding any period in which such services are  
2        not provided in the ordinary course).

3        “(b) *IN GENERAL.*—Notwithstanding any other provi-  
4        sion of this title, if a State fails to fulfill the requirement  
5        of subsection (a), the Secretary shall withhold, in accord-  
6        ance with section 455 of the General Education Provisions  
7        Act, all funds otherwise made available to the State under  
8        this title, until the State remedies such failure.”.

9        **SEC. 5. CONFORMING AMENDMENTS.**

10        (a) *TITLE HEADING.*—The title heading of title VII  
11        of the Elementary and Secondary Education Act of 1965  
12        is amended to read as follows:

13        **“TITLE VII—ENGLISH LANGUAGE**  
14        **FLUENCY AND FOREIGN LAN-**  
15        **GUAGE ACQUISITION PRO-**  
16        **GRAMS”.**

17        (b) *ELEMENTARY AND SECONDARY EDUCATION ACT.*—  
18        The Elementary and Secondary Education Act of 1965 is  
19        amended—

20                (1) in section 2209(b)(1)(C)(iii) (20 U.S.C.  
21        6649(b)(1)(C)(iii)), by striking “Bilingual Education  
22        Programs under part A of title VII.” and inserting  
23        “English language education programs under part A  
24        of title VII.”; and



1           (2) in section 14307(b)(1)(E) (20 U.S.C.  
 2       8857(b)(1)(E)), by striking “Subpart 1 of part A of  
 3       title VII (bilingual education).” and inserting “Chap-  
 4       ter 2 of subpart 1 of part A of title VII (English lan-  
 5       guage education).”.

6       (c) DEPARTMENT OF EDUCATION ORGANIZATION  
 7       ACT.—

8           (1) IN GENERAL.—*The Department of Education*  
 9       *Organization Act is amended by striking “Office of*  
 10       *Bilingual Education and Minority Languages Af-*  
 11       *fairs” each place such term appears in the text and*  
 12       *inserting “Office of English Language Acquisition”.*

13       (2) CLERICAL AMENDMENTS.—

14           (A) SECTION 209.—*The section heading for*  
 15       *section 209 of the Department of Education Or-*  
 16       *ganization Act is amended to read as follows:*  
 17       “OFFICE OF ENGLISH LANGUAGE ACQUISITION”.

18           (B) SECTION 216.—*The section heading for*  
 19       *section 216 of the Department of Education Or-*  
 20       *ganization Act is amended to read as follows:*

21       **“SEC. 216. OFFICE OF ENGLISH LANGUAGE ACQUISITION.”.**

22       (C) TABLE OF CONTENTS.—

23           (i) SECTION 209.—*The table of contents*  
 24       *of the Department of Education Organiza-*

1                    *tion Act is amended by amending the item*  
2                    *relating to section 209 to read as follows:*

*“Sec. 209. Office of English Language Acquisition.”.*

3                    *(ii) SECTION 216.—The table of con-*  
4                    *tents of the Department of Education Orga-*  
5                    *nization Act is amended by amending the*  
6                    *item relating to section 216 to read as fol-*  
7                    *lows:*

*“Sec. 216. Office of English Language Acquisition.”.*

8    **SEC. 6. EFFECTIVE DATE.**

9            *The amendments made by this Act shall take effect on*  
10 *the date of the enactment of this Act, or October 1, 1998,*  
11 *whichever occurs later.*